Docket No.: 532552000102
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of: Paul TARDI et al. Application No.: 10/553,373 Filed: April 16, 2004 (Int'l) For: COMPOSITIONS FOR DELIVERY OF DRUG COMBINATIONS	Confirmation No.: 3684 Art Unit: 1612 Examiner: Gollamudi S. Kishore, Ph.D.

AMENDMENT UNDER 37 C.F.R. § 1.111
AND RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to a Notice of Non-Compliant Amendment mailed 27 July 2011, time for response to which was set to expire 27 August 2011. The Notice concerned a response filed 24 May 2011 to an Office action mailed 24 November 2010, time for response to which was set to expire 24 February 2011. A petition for an extension of time of three (3) months until 24 May 2011 was attached, along with the required fee. All of the pending claims, claims 25-53, had been rejected.

Enclosures: Terminal disclaimers with respect to Serial No. 10/417,631 (now U.S. patent 7,850,990), and Serial Nos. 11/701,326, 11/304,328 and 11/841,786.
Declaration of Dr. Lawrence Mayer
Protocol of Example 3 of US 60/341,529 and the corresponding figure showing results
Scherphof, G., et al., Biochim et Biophys Acta (1978) 542:296-307

As the Examiner is aware, the examined claims were identical except for format required by statute and practice to those that were granted in the European counterpart of this application. As the Office has not taken advantage of the thorough examination that had been conducted in Europe that resulted in the grant of these claims, the following amendment reflects aspects of the invention that applicants would otherwise have pursued.

The claims were originally drawn to combinations of antineoplastic agents in view of the petition to examine this under the Patent Prosecution Highway. Since apparently the impact of the EPO grant has been ignored, applicants believe they should no longer be restricted to those claims that were allowed in the European Patent Office. No argument has been advanced by applicants based on the nature of the agents themselves. Accordingly, the issues are the same as would have been the case had the original claims not been thus restricted. Nevertheless, in order to expedite prosecution, the claims have again been drawn to antineoplastic agents.

Reconsideration in light of the amendment and the following discussion is respectfully requested.